NO. 87-990

Supreme Court, U.S.
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In the Supreme Court of the United States

OCTOBER TERM, 1987

CLEVELAND RISER, JR.,
Petitioner

versus

LASALLE PARISH SCHOOL BOARD, ET AL.
Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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No. 3,050

COUNTER STATEMENT OF QUESTIONS PRESENTED FOR REVIEW

I. Whether Mr. Riser failed to prove that his discharge by the School Board was "substantially motivated" by racial discrimination in violation of 42 U.S.C. §1981 or §1983 or conduct protected by the First and Fourteenth Amendments to the Constitution of the United States.

II. Whether the School Board was entitled to judgment dismissing Mr. Riser's racial discrimination and Constitutional claims on grounds of issue preclusion under authority of *University of Tennessee v. Elliott*, 106 S. Ct. 3220 (1986).

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CLEVELAND RISER, JR.,
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versus

LASALLE PARISH SCHOOL BOARD, ET AL.,
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BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

ADDITIONAL CONSTITUTIONAL PROVISIONS AND STATUTES

1) United States Constitution
Amendment XIII:

"Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

"Section 2. Congress shall have power to enforce this article by appropriate legislation."

2) Louisiana Revised Statute 13:4231:

"The authority of the thing adjudged takes place only with respect to what was the object of the judgment. The thing demanded must be the same; the demand must be founded on the same cause of action; the demand must be between the same parties, and formed by them against each other in the same quality."

COUNTER-STATEMENT OF THE CASE

Cleveland Riser, Jr. ("Mr. Riser:"), then employed by the LaSalle Parish, Louisiana, School System as Assistant Superintendent and Supervisor of Auxiliary Programs, was suspended prior to a LaSalle Parish School Board ("School Board") hearing on charges that he sexually harrassed seven young women who were enrolled in a GED program which operated under his supervision. At the School Board Tenure hearing, held on June 2-3, 1983, which was closed to the public at Mr. Riser's request, seven Adult Education Program female students, assigned to Mr. Riser, testified in detail about the incidents of sexual harassment.

These activities took place in Mr. Riser's office or at the Indian Center while Mr. Riser was performing his official duties.

Mr. Riser denied the charges and asserted defenses that the witnesses and the School Board had conspired against him, in order to punish him for his role in filing suit against the School Board in 1979, and because he is black (Tr. of June 3, 1983, pp. 92-94). The School Board unanimously found Mr. Riser guilty on all charges (Tr. of June 3, 1983, pp. 109-124) and, for these reasons, discharged him from employment (Resp. Appendix, p.15).

Mr. Riser filed the instant suit in the United States District Court for the Western District of Louisiana. So far as is relevant to the Petition in this cause, Mr. Riser alleged that his discharge from employment was substantially motivated by racial discrimination in violation of 42 U.S.C. §1981 and §1983, or because he engaged in conduct protected by the First and Fourteenth Amendments to the Constitution of the United States.

Contrary to the assertions at page 6 of Mr. Riser's Petition, at the Tenure Hearing held by the LaSalle Parish School Board on June 2-3, 1983, Mr. Riser's legal counsel made no contention that Mr. Riser had been deprived of any opportunity to "raise allegations of racial discrimination and deprivation of rights, privileges, and immunities which form the basis of the instant lawsuit". At the Tenure Hearing Mr. Riser's legal counsel dwelled on precisely those issues in his final arguments (Tr. of June 3, 1983, pp. 92-94). Mr. Riser's attorney was allowed substantial latitude to cross-examine the LaSalle Parish Superintendent of Schools on the question of motive. (Tr. of June 2, 1983, pp. 179-188; 194-195; 211-213).

Further, witness Chester Floyd testified in support of Mr. Riser's allegations of racial discrimination and deprivation of his Constitutional rights (Tr. of June 3, 1983, pp. 45-71, esp. at 59-64).

Mr. Riser testified at length at the Tenure Hearing (Tr. of June 2, 1983, pp. 16-44; June 3, 1983, pp. 72-83). At no time was Mr. Riser's counsel deterred from asking any questions on any subject.

The evidence and witnesses presented at the Tenure Hearing were not "confined strictly to the charges of sexual harassment".

Immediately prior to trial of this cause on the merits on January 7, 1987, the District Court held a Pre-Trial Conference at which he ruled that there was no need to call any witness whose testimony would merely duplicate the testimony previously given at the Tenure Hearing (District Court Tr.3-6). Based on this ruling, Mr. Riser's trial counsel voluntarily dismissed eight of his witnesses, all of whom had testified at the Tenure Hearing (District Court Tr. 8-9).

Trial counsel for Petitioner and for the School Board "stipulated that each of the eight witnesses would have given substantially the same testimony as that contained in the School Board hearing transcript" (Petitioner's Appendix, p. 27n.). "[P]laintiff produced no new evidence to support averments of race discrimination or of a conspiracy to retaliate against the plaintiff" (Petitioner's Appendix, pp. 28-29). The only witnesses called by Petitioner's counsel were Petitioner and his wife. Petitioner was given every opportunity to present new evidence; none was presented.

Contrary to Petitioner's assertions at page 7 of his Petition, the trial court never refused to allow him to present witnesses, save for those witnesses whose testimony would have replicated what those same witnesses had stated at the Tenure Hearing.

At no time did the district court limit the receipt of testimony and evidence from which petitioner might have substantiated his allegations of racial discrimination and deprivation of Constitutional rights.

Further, the School Board introduced testimony of two School Board members as to the basis of the determination and decision of the School Board following the Tenure Hearing. Each testified that neither Mr. Riser's prior activities in successfully suing the School Board nor

his race played any part in the determination to terminate his employment (District Court Tr. 60-62, 68-70). The School Board further offered each and every remaining School Board member if Mr. Riser's counsel "wants any of them on cross-examination" (District Court Tr. 75). Moreover, four of the seven complaining women who testified at the Tenure Hearing were made available to testify in the district court under cross-examination of Mr. Riser's counsel (District Court Tr. 4).

Mr. Riser's counsel declined to call any of these School Board members or complainants in an effort to establish the truth of the allegations in his Complaint.

SUMMARY OF ARGUMENT

The district court's pretrial ruling admitting the Tenure Hearing transcript into evidence and disallowing duplicative testimony given at the Tenure Hearing was correct. *University of Tennessee v. Elliott,* 106 S. Ct. 3220 (1986); *Hodges v. United States,* 597 F.2d 1014 (5th Cir. 1979).

Although Mr. Riser was given every opportunity, he failed to put forth any credible evidence that his race or Constitutionally protected First or Fourteenth Amendment activity was a substantial and motivating factor in the School Board's decision to terminate his employment, and, therefore, he failed to meet his burden under *Mt. Healthy School Dist. v. Doyle,* 429 U.S. 274 (1977). As the court below held:

> "Riser's prior criticisms of the school board do constitute protected conduct. The difficulty with his position, however, is that he has presented no evidence to show that his conduct was causally related to the termination. Moreover, even if

Riser had met the initial burden of proving the board's decision was motivated substantially by the protected conduct, under the evidence the board would have been justified in terminating him. If the allegations of seven instances of sexual harassment of students are true, this is an overwhelming reason to believe that the board 'would have reached the same decision as to respondent's reemployment even in the absence of the protected conduct.' *Doyle*, 429 U.S. at 287, 97 S. Ct. at 576. In *Phillips v. Plaquemines Parish School Board*, 465 So. 2d 53 (La. App. 4th Cir.), *cert. denied*, 467 So. 2d 540 (1985), a former tenured principal alleged neither that he was black nor that he had engages in constitutionally protected conduct. Nevertheless, the Louisiana appeals court affirmed the school board's decision to terminate him based on one incident of sexual harassment. There is every reason to believe that other school boards should act likewise.

"Riser's contention that he did not have an opportunity to fully litigate his claim is also without merit. The district judge gave him an opportunity to present evidence not presented at the school board hearing. Four of the complaining witnesses were present at the federal district court trial pursuant to a subpoena. Riser was offered the opportunity to cross-examine them, yet he chose not to do so. The judge was highly familiar with Riser's prior protected conduct, having been the same judge to find in Riser's favor in a prior lawsuit against the board. The only excluded testimony was that which would have been repetitious. Riser's appeal is without merit."[1]

---

[1] The text of the Decision of the Court of Appeals, as reproduced in the appendix to the Petition (p. 36), has been inadvertently garbled (Petitioner's App. p. 36).

ARGUMENT

I - *No Proof of Discrimination*

At the pretrial conference, the district court admitted the transcript of the School Board hearing into evidence and ruled that there was no need to call any witnesses whose testiomony would merely duplicate previous testimony at the School Board hearing. (District Court Tr. 3-6). This pretrial ruling was incorporated into the pretrial order.

The district court also properly restricted to a reasonable number the group of witnesses who had been called to testify as to Mr. Riser's reputation.

The district court's pretrial ruling is not unjust. The parties were treated equally. No party was denied the opportunity to present new testimony or new evidence or argue an issue.

Contrary to the claim in his Petition (p. 11), Mr. Riser received a full *de novo* trial on the merits in district court. The transcript of the School Board hearing was offered into evidence by the parties and reviewed by the Court. The parties were given the opportunity to present evidence not contained in the transcript. Mr. Riser did not produce any new evidence at trial. Mr. Riser's inability or failure to produce new evidence does not indicate a lack of opportunity to produce it. The district court did not merely review the regularity of the Tenure hearing. It tried the issues *de novo* on January 7, 1987, using the evidence adduced at the Tenure Hearing as evidence in the cause which it tried.

Mr. Riser argues that the district court should have allowed witnesses to testify regarding the history of racial discrimination in the LaSalle Parish School system. First

there is no indication in the trial transcript that such non-duplicative testimony would have been excluded. The only opportunities denied to Mr. Riser's counsel were the opportunities to replicate testimony already admitted into evidence and to introduce repetitious reputation evidence. (District Court Tr. 5). Second, this testimony was in evidence through the School Board hearing transcript. (Floyd testimony, Tr. of June 3, 1983, pp. 45-71; Attorney argument, Tr. of June 3, 1983, pp. 92-94). Third, counsel "stipulated that each of the eight witnesses [who were not permitted to testify] would have given substantially the same testimony as that contained in the School Board transcript" (Petitioner's Appendix p. 27n). Finally, as the Court of Appeals stated, "The judge was highly familiar with Riser's prior protected conduct, having been the same judge to find in Riser's favor in a prior lawsuit against the board. The only excluded testimony was that which would have been repetitious, Riser's appeal is without merit." (Petitioner's Appendix, p. 36).

The district court was fully aware of all aspects of Mr. Riser's previously decided Civil Rights action. Judge Scott had decided that cause in Mr. Riser's favor, and it was his opinion which the Fifth Circuit affirmed on October 18, 1983. (Docket, 5th Cir. 83-4183).

There is no merit to the assertion in Mr. Riser's Petition (p. 11) to this Court that on trial in the district court in this cause, he was denied the right to litigate his "discrimination issues." These are "state of mind" issues. The School Board's counsel examined two Board members as to their state of mind when they determined that Mr. Riser's employment should be terminated (District Court Tr. 60-62, 68-70) and tendered the remaining members to Mr. Riser's counsel for cross-examination (District Court Tr. 75).

This Court has articulated minimum evidentiary requirements which can shift the burden of proof onto a defendant school board: the teacher must show that his race or Constitutionally protected conduct was a "substantial factor" or a "motivating factor" in the board's decision not to rehire him. *Mt. Healthy City School Dist. v. Doyle,* 429, U.S. 274, 287 (1977).

Mr. Riser failed to carry this burden. He introduced no evidence of improper motive other than his own speculations, and he was in no way precluded by the rulings of the district court from introducing such evidence.

II - *Claims Precluded By Tenure Hearing*

There is a second and discrete ground for denial by this Court of Mr. Riser's Petition. All of Mr. Riser's claims were precluded by the Tenure Hearing and by his subsequent failure timely to pursue his adequate remedies in the state courts of Louisiana. No evidentiary hearing in the district court was required. *University of Tennessee v. Elliott,* 106 S. Ct. 3220 (1986). *A fortiori,* judgment in favor of the School Board following trial on the merits was mandated by this Court's opinion in the *Elliott* case.

In the *Elliott* case, this Court addressed the issue of whether a decision of a state agency, acting in a judicial capacity, has a preclusive effect on subsequent litigation which raises Reconstruction civil rights statutes and Thirteenth and Fourteenth Amendment claims in federal court. *University of Tennessee v. Elliott,* 106 S. Ct. 3220 (1986); *Accord Abramson v. Council Bluffs Community School Dist.,* 808 F.2d 1307 (8th Cir. 1987). This Court held that it is sound policy to apply principles of issue preclusion to the fact findings of an administrative body acting in a judicial capacity.

In the *Elliott* case, a black petitioner, under notice of discharge, requested and received an administrative hearing. The administrator decided that the proposed disciplinary action was not racially motivated. Instead of seeking administrative review in the Tennessee state court, Petitioner pursued civil rights claims in the federal court.

This Court held that "when a state agency 'acting in a judicial capacity [such as hearing the evidence supporting the dismissal of a state employee] resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate,' federal courts must give the agency's fact-finding the same preclusive effect to which it would be entitled in the State's courts" *Elliott,* 106 S. Ct. 3227 (quoting *United States v. Utah Const. & Min. Co.,* 384 U.S. 394, 422 (1966)). This Court reasoned that:

> [T]he value [of preclusion] encompasses both the parties' interests in avoiding the cost and vexation of repetitive litigation and the public's interest in conserving judicial resources . . . whether the fact-finding is done by a federal or state agency.
>
> Having federal courts give preclusive effect to the factfinding of state administrative tribunals also serves the value of federalism. *Id.* at 3226.

In the case at bar, Mr. Riser received a due process administrative hearing on his termination at which he raised the same factual issues raised in the instant petition. As in the *Elliott* case, Mr. Riser's claims are lodged under 42 U.S.C. §1981 and §1983 and the United States Constitution. In that case this Court concluded that, "Congress, in enacting the Reconstruction civil rights statutes [42 U.S.C. §§1981-5], did not intend to create an exception to the general rules of preclusion" *Elliott,* 106 S. Ct. at 3225.

Mr. Riser was allowed to present as many witnesses as he wanted at the School Board hearing (Tr.of June 3, p. 16-19). Plaintiff's claims of racial discrimination under 42 U.S.C. §1981, and §1983 and of violation of his Constitutional rights were fully ventilated.

Further, the Tenure Hearing transcript established that the School Board's hearing would have been given preclusive effect in Louisiana's courts. A school board's decision is not disturbed when there is "substantial evidence" supporting a rational basis for the decision.[2]

Under the rule and the analysis of the *Elliott* case, this Court should accord to the factual conclusions of the LaSalle Parish School Board, the same preclusive effect to which they would be entitled in the Louisiana courts.

Louisiana employs a three-step test for *res judicata.* "The thing demanded must be the same; the demand must be founded on the same cause of action; the demand must be between the same parties, and formed by them against each other in the same quality" La. R.S. 13:4231.

Each of these statutory elements required for the application of *res judicata,* has been satisfied by the decision of the School Board.

---

[2] The direct testimony at the LaSalle Parish School Board hearing by the seven women who had been sexually harassed by plaintiff constitutes "substantial evidence" as required by the Louisiana Supreme Court in *Lewing v. DeSoto Parish School Board,* 238 La. 43, 113 So. 2d 462, 466 (1959). In *Phillips v. Plaquemines Parish School Board,* 465 So. 2d 53, 55 (La. App. 4th Cir.), *cert. denied,* 467 So. 2d 540 (1985), one instance of sexual harassment by a tenured teacher was held to be "a substantial basis for the board's finding of incompetency" *Accord, Jones v. Jefferson Parish School Board,* 533 F. Supp. 816, 822 (E.D. La.), *aff'd,* 688 F.2d 837 (5th Cir. 1982).

First, the relief demanded is the same. At the School Board hearing, Mr. Riser argued against his termination. In the Complaint (p. 6) in the case at bar, Mr. Riser prays for "a judgment declaring the termination of complainant to be a violation of law".

Second, in both cases the cause is the same. At the School Board hearing, Mr. Riser contended that he was conspired against because of his race and his First Amendment protected conduct. The same allegations are set forth in sections (a), (b), (c), and (d) of par. 6 of the Complaint.

Third, the parties are the same. At the School Board hearing, Mr. Riser attacked Supt. Bass and the entire School Board, both individually and in their official capacities, on conspiracy grounds. In the case at bar, Mr. Riser has sued the School Board, all of its members who participated in the Tenure Hearing, and Supt. Bass.

CONCLUSION

Judge Scott's ruling, limiting testimony at trial to testimony not given at the School Board hearing was not a clear abuse of discretion. Indeed the ruling was correct and does not constitute reversible error.

Mr. Riser did not prove that his race and Constitutionally protected activities were a substantial factor motivating his termination from employment. Mr. Riser did not meet his burden of proof.

The district court's judgment is based on substantial evidence that Mr. Riser sexually harassed seven female students.

Relitigation of Mr. Riser's claims in the district court is precluded. *University of Tennessee v. Elliott,* 106 S. Ct. 3220 (1986).

The petition should be denied.

Respectfully submitted, December 22, 1987.

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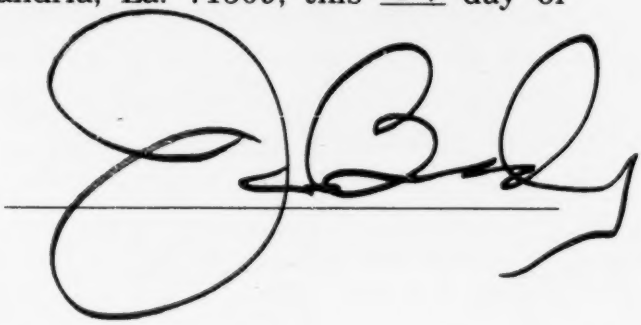
CERTIFICATE OF SERVICE

I certify that three copies of the foregoing Brief in Opposition have been mailed to Gregory S. Erwin, Esq. and Scott Chemino, Esq. of Messrs. Bolen & Erwin, Ltd., P.O. Box 906, Alexandria, La. 71309, this 24th day of December, 1987.



SCHOOL BOARD DETERMINATION, LETTER OF JUNE 3, 1983

LASALLE PARISH SCHOOL BOARD
OFFICE OF SUPERINTENDENT
P. O. DRAWER 90 PHONE 992-2161
JENA, LOUISIANA 71342

June 3, 1983

Mr. Cleveland Riser, Jr.

As Superintendent of the LaSalle Parish School Board, I hereby furnish you with a written statement advising you that the LaSalle Parish School Board has found you guilty of willful neglect of duty, incompentence, and dishonesty on each of the attached charges. The LaSalle Parish School Board has based on the attached charges recommended that you be terminated and removed from your position with the LaSalle Parish School Board, effective this date.

This written statement has been approved by the LaSalle Parish School Board and the exact reasons or offenses or instances are fully contained in the attached charges and the entire record made in the hearing on said charges made before the Board.

/s/ EDGAR J. BASS

Edgar J. Bass, Superintendent
LaSalle Parish School Board

Attachment

CERTIFICATE OF THE SECRETARY

I, Edgar J. Bass, the undersigned Secretary of the LaSalle Parish School Board, hereby certify that the above is a true and correct copy of a letter given to Mr. Cleveland Riser, Jr., on June 3, 1983.

LaSALLE PARISH SCHOOL BOARD HEARING OF JUNE 2, 1983: TESTIMONY OF LaSALLE PARISH SCHOOL SUPERINTENDENT EDGAR BASS, UNDER CROSS-EXAMINATION BY MR. JOHN HONEYCUTT.

Q (179) Now, isn't it true that Mr. Robert Coleman is the assistant Superintendent under you?

A Yes, sir.

Q Doesn't he hold that position when the Federal District Court in Alexandria had awarded that - has awarded to Mr. Riser?

A He still holds the position.

Q Okay. And has not the Federal District Court awarded that position to Mr. Riser?

MR. BRADY: I want to object to the- him going into anything of what the Federal District Court has or has not done. This matter is on Appeal and this matter is just not final. (180)

Q Well, I acknowledge that it is on appeal but I'm entitled to pursue the line of questioning that I want on cross examination.

MR. BRADY: Well, I don't think it is relevant, Mr. President and members of the Board, but he does have a lot of leeway under cross examination. I just don't feel that going into this Federal proceedings is relevant to the matter at all. Mr. Coleman is not on trial here, and not the subject of this hearing. He can - he wants to, maybe, attempt to show various things, but my objection mainly is that if he is going to go into any depth on the Federal proceedings, they are not relevant to this case.

Q I don't intend to go into any depth, but I need to and I am entitled to establish the foundation of the status of that Federal proceeding and the particular position of Assistant Superintendent, because that..

MR. BRADY: You can do that.

A Okay, I don't intend to go any deeper than the fact that the Federal District Court awarded the position to Mr. Riser and the matter is now on appeal.(181)

MR. BRADY: I have no objection to that. That is a correct statement..

MR. NORRIS: That's right.

MR. MCCARTNEY: Could I ask a question in regard to this. I'm not..

Q Yes, sir.

MR. MCCARTNEY: .... I'm not quite clear on this but I understand that the Federal District Court ruled in this case in Mr. Riser's favor, then it was appealed to the Court of Appeals and they sent - they did not necessarily agree with Judge Scott. They sent it back to him for his consideration again. Is that where we are with that thing?

MR. BRADY: And he then made the same decision that he made the first time and it's back on appeal.

MR. NORRIS: All right. We have established that.

MR. BRADY: Is that the way you understand it, Mr. Bass?

A Yes.

Q Mr. Bass, how old are you?(182)

A I'm 64.

Q And you've been the Superintendent since 1979?

A Yes, sir.

Q Isn't it true that you are getting pretty close to retirement?

A Well, that's a relative question, sir. I'm not getting close to retirement age.

Q Well, are you personally getting close to retirement from your position?

A Well, I don't know. I haven't made any decision about retirement.

Q Haven't you told certain friends or acquaintances that you are getting pretty close to retirement?

A I have on occasions.

Q Do you know what would happen to Mr. Coleman's position as Assistant Superintendent if the Appeals Court upholds the Federal Court's decision.

MR. BRADY: At this point I think you have gone too far and I'm going to object that that has no relevancy at all, you know, to these proceedings.

MR. NORRIS: I understand. We are getting on other avenues and I object.

MR. POOLE: We aren't talking about what's happening in the future. We are (183) talking about

what's happening now. For the record, in order to show the reason for what is happening now, I'm trying to lay the foundation for why these things are happening. The underlying motive for these things. I think I'm entitled to pursue these lines of questioning particularly on cross examination. It's not, as your attorney has advised, it's not to be as strictly construed against me as Mr. Riser's attorney as it would be under direct examination.

MR. BRADY: My objection is on two things. That it's going - that is is not relevant to this proceeding, and secondly that it is speculative, and plus I don't think - it is calling for an opinion from Mr. Bass that he is just not in a position to give. What is going to happen if he retires is up to this Board or another Board or a future Board or anything. It's just too speculatively and it's not at all relevant to these proceedings.

Q It is relevant to the proceedings in that we have an opportunity and a right to show, if we can, whatever the underlying motive for these charges may be against (184) Mr. Riser. If we can - you all are the body that decides if we have put on sufficient evidence of that fact, that's true, but we are entitled to put on the evidence if we think we have evidence to show that there is an underlying motive for these charges against Mr. Riser, we are entitled to put that on. As far as the speculativeness, Mr. Bass either knows the answer to the question or he doesn't. If he does not know the answer to the question he is certainly free to say I don't know. But what I'm trying to say is, I'm entitled to probe this witness and any other witness offered by Mr. Brady to find out those things that we can find out. Otherwise, it's equivalent to not having any defense at all for Dr. Riser.

MR. NORRIS: Are you asking Mr. Bass if he is going to retire right away?
Is that what you want him to answer, to answer your question?

Q Well, my last question was does he know what would happen to Mr. Coleman's position if the Court of Appeal put Mr. Riser in it?

MR. MORGAN: What has that got to do with Mr. Riser and what we are facing today? I mean, what has that got to do (185) with the case we are looking at?

MR. PONDS: Harlan, I think what the man is saying is that his defense - if I'm wrong, certainly correct me. That there is a motive there for bringing these charges other than the face value of the charges.

Q That's entirely correct. And that is what we are trying to probe - and we think we have some evidence to that effect but we won't even be able to know until we have a chance to question these witnesses. There is no, as the Board knows, there is no discovery proceeding that we could have done before this to find out. As in a law suit, we could have taken depositions, we could have issued interrogatiories and gotten these answers. This proceeding is one where we are forced to conduct our discovery and have our trial at the same time. Now, we may uncover some information that maybe helpful to us or harmful to to us. I don't know the only way I can find out is by asking these questions. We are entitled, I think to probe - if we can show an underlying motive for these charges other than the fact of the charges themselves, I think we are entitled to do that. In fact, I know under the law we are entitled to do (186) that.

MR. BRADY: At the same time he cannot just do, you know, into any area in the world looking

for some underlying motive. He can ask direct questions that are relative to this hearing in a motive. I think, you know, we are taking up valuable time that we have here. Go ahead, and if Mr. Bass can answer this particular question, I think that is..

Q I don't intend to go far afield. There is only one underlying motive that I intend to pursue and that is the one that we think we have some evidence on, and if these witnesses answer my questions in such a manner that it proves that we do not have the evidence, then so be it. But I'm entitled to ask those questions and I'm entitled to get an answer from those witnesses whether it's yes or no or I don't know.

MR. BRADY: Why don't you ask the question and get to the heart of the matter rather than speculative questions.

Q Well, I..

MR. NORRIS: I think that would be much better. Go ahead and ask the (187) question over.

Q Okay. Mr. Bass, do you know what would happen to Mr. Coleman's position as Assistant Superintendant if Mr. Riser is placed in that position by the Federal Court?

A Well, I can't answer for the action of the Board. They would have to take action.

Q Is that your response?

A Yes, sir.

Q If Mr. Riser is appointed as - if it ordered by the Court that he be the Assistant Superintendent, would it not stand to reason that Mr. Coleman would not be?

A We would not have two.

Q Have you ever discussed with Mr. Coleman his aspirations to become the Superintendent of Education for LaSalle Parish?

A Yes, sir.

Q Do you recall a conversation that you had with Mr. Chester Floyd in recent weeks?

A Yes, sir.

Q At that time did you discuss with him his hiring - or your hiring of Mr. Brady to represent the School Board in this matter?

A Ah, Mr. Floyd did the talking on that. I didn't discuss it with him. (188)

Q But you recall that conversation?

A Yes, sir.

X X X

Q (194) Did you make a statement in your conversation with Mr. Floyd that - to the effect that if Speedy Long was going to stay on the case that you would not bring the charges?

A No, sir-ee.

Q Did you make a statement to him that the reason that you wouldn't bring charges was because he and Mr. Riser were too good a friends?

A No.

Q Did you make a statement to Mr. Floyd in your conversation with him to the effect that if the Court of Appeal were to uphold the Federal District Court (195) and appoint Cleveland Riser to the Assistant Superintendent's position, that he would be your next Superintendent and that the people wouldn't stand for that?

A No.

X X X

LaSALLE PARISH SCHOOL BOARD HEARING OF JUNE 2, 1983: TESTIMONY OF LaSALLE PARISH SCHOOL SUPERINTENDENT EDGAR BASS, UNDER RE-DIRECT EXAMINATION BY MR. JAMES BRADY, AND RE-CROSS EXAMINATION BY MR. JOHN HONEYCUTT.

(211)

BY MR. BRADY:

Q I have one or two questions, Mr. Bass. Were the charges that were brought against Mr. Riser that are the subject of this hearing at this time, brought for any other reasons than those set forth in the charges?

A No.

Q The duties of Mr. Riser certainly do not include or permit, as an employee of the School Board with the stature that he enjoys to take the liberties and make the statements to the young ladies that testified last evening, do they?

A They do not.

Q The evaluation forms that have been introduced into evidence here were conducted by you to judge Mr. Riser's performance on a work basis, is that correct?

A That's correct.

Q They were not in anyway meant to judge his character (212) with the young ladies that testified here last night?

A No, indeed.

Q And your having a duty by law and by the charge of this Board to bring charges when such incidents as are the subject of this hearing are brought to your attention that occurred, after proper evaluation, is that correct?

A That's correct.

Q Is that what you did in this case?

A That's what I did.

Q Thank you. That's all I have.

BY MR. HONEYCUTT:

Q I have just one matter to pursue. Just so that we have the two separated, based on the record, his evaluation sheet which you have said all showed satisfactory or above work, and you testified that his work - he enjoys a good work reputation for the work, you don't have any complaint with Mr. Riser's work itself, do you?

A No response.

Q I'm talking about aside from the charges of sexual harrass - I'm talking about from the work that he does in his office in performing his job and putting out the work, as you stated, you don't have any complaint with the way he does that, do you? (213)

A Now, you said besides the charges?

Q Okay, I'm not talking - I'm separating the two. On the one hand you have sexual harrassment charges, on the other hand you have the work the man performs. Your charges you have stated in response to Mr. Brady's question, deal with the sexual harrassment allegation?

A Right.

Q I'm asking you, is it not your testimony that you have no complaint with the work that Dr. Riser performed?

A I don't have any - no - if you are separating the two I

do not have any complaint.

Q Okay. that's all I have. Thank you.

LaSALLE PARISH SCHOOL BOARD HEARING OF JUNE 3, 1983: DISCUSSION AMONG MR. HONEYCUTT, MR. BRADY AND THE SCHOOL BOARD.

MR. BRADY: (16)Mr. President, and Members of the Board, this is about the eighth or ninth witness of this type that we've heard. Mr. Honeycutt, you know, can call witnesses but I would suggest that they -- they're simply getting cumulative and unless they are, have anything different or represent a different cross section-- I assume that Mr. Riser could, you know, subpoena and have present here, you know, 40 or 50 people to say the same thing, that it never happened to them. That's still not, you know, relevant as to, you know, the matters before this Board. I would suggest that the Board limit, you know, further testimony of this type.

MR. HONEYCUTT: I don't think that that's allowed under the law. First of all, and certainly I can certainly appreciate Mr. Brady's position in wanting to limit some testimony to -- especially rebuttal testimony to the testimony he's put on. First of all, I will say Revised Statute 1743, which is the Statute under which (17) these charges are brought, which states:
The teacher shall have the right to appear before the Board with witnesses in his behalf and counsel of his selection, all of whom shall be heard by the Board at said hearing. So, the law does not provide for the Board to limit the witnesses, first of all. Secondly, we're talking about 27 years of a man's career and 50 years of a man's life and reputation at stake, and I think it's not too much of an inconvenience upon the rest of us to hear these witnesses, if they take five minutes or if they take 55 minutes. That's a long time, and these are serious allegations, and there's a lot that could be suffered here. And

under the letter of the law, first of all, we're required to do these things, and, secondly, I think there's that much at stake, even if it was not required by law.

MR. BRADY: I don't think that anything in the law, you know, necessarily means that the Board has to sit here and listen to witness after witness after witness. I would be willing to -- if Mr. Honeycutt would tell me the names of the persons that he's going to call, I'd be willing to ask them if they, they are going to testify in that manner, and then would be willing to stipulate. I think (18) that would save some time. Other than that, if the Board desires to hear them I will, too.

MR. HONEYCUTT: I appreciate the offer -- but I don't think -- again, I don't think there's anything clearer than the language that "all of whom shall be heard by the Board." And in a normal proceeding I would be happy to enter into such a stipulation, but again we're talking about 27 . . .

MR. BRADY: Well, we're wasting . . .

MR. HONEYCUTT: . . . years of a man's career, his reputation and his entire life that could suffer severe damage. And I think that these witnesses -- they're not taking very long, we're moving along fairly rapidly than we were last night, and we're going to be through in a very short period of time. We have three or four more, it's true, but because of the importance I think the Board should, should have a chance to, to visualize the people that are sitting in this chair, to judge their demeanor, and to listen to what they say, who they are rather than to enter into any stipulation without them knowing them.

MR. BRADY: I think -- then within that basis, let's go ahead, the Board should go ahead and hear it. (19)

MR. NORRIS: All right.

MR. BRADY: I withdraw my objection.

LaSALLE PARISH SCHOOL BOARD HEARING OF JUNE 3, 1983: - TESTIMONY OF FORMER SCHOOL BOARD MEMBER CHESTER FLOYD, UNDER DIRECT EXAMINATION OF MR. HONEYCUTT.

(59) SCHOOL BOARD MEMBER NORRIS: Why do you think Judge Scott might come over here, Chester?

A Because I feel like at least one bright person out of them quarters will ask him to come. I don't know which one it will be, there's a lot of them out there.

SCHOOL BOARD MEMBER NORRIS: All right.

A Does that answer your question?

SCHOOL BOARD MEMBER NORRIS: Yes, sir.

MR. BRADY: Did you respond to (60) Mr. Honeycutt's question?

Q Did you discuss the possibility of Mr. Bass's retirement at that time?

A Yes, sir. We, we talked about it a little bit.

Q And what did he say?

A Well, the first thing he said . . .

Q Well, first of all, did you ask him about retirement?

A I didn't exactly ask him. I told him that it wouldn't be no schools down there, and he said: yes. And, Mr. Coleman -- of course, he was arguing, too.

X X X

Q Can you proceed.

A Well, I get plumb lost. When I, when I mentioned Judge Scott coming in, I told them what would happen to the two schools, they didn't believe that.

Q Did you ask him if he was ready to retire?

A No, that wasn't the way it came up. I -- if you'll just let (61) me tell it, I will tell facts. It will be facts.

Q Tell us how it happened.

A He said, and I told him that's what would happen, and I also told him, I said: now, if Cleveland Riser keeps a-batting like he's a-batting now, he's going to beat you again, too. Ed said: if he beat him, if he did win this case he would resign. That's when I said: well, that's what you want to do anyhow, isn't it? Well, he said: I'll resign if he, if he wins the case, this case I'll resign. I said: now, Ed, I said: ain't it a fact that you're already wanting to resign today, retire today? And I said: you want to, this whole thing concocted to pull at the right and appropriate time to help someone else, at least one other person or maybe two. He said: no. Wanted to know what you're talking about. I said: well, I think you already know what I'm talking about. I never did call a name. But I still think he knows what I'm talking about, and I think you gentlemen do, too. and . . .

X X X

A I told him I thought his, his retirement that, that this charges against Dr. Riser has a lot to do with his retirement. (62) That's what it actually amounted to. And he said it did not. Of course, I couldn't dispute that, that's his word, not mine. And I believe that ended the retirement, the best I can remember it.

Q When you talked, when you made reference to he was doing all this to help one person, possibly two, who were those people you're referring to?

MR. BRADY: He never made that statement. And I'm objecting to that as being suggestive or leading.

Q Did you make . . .

A That's the exact words I said.

MR. HONEYCUTT: I believe he just testified that he confronted Mr. Bass with that statement.

SCHOOL BOARD MEMBER NORRIS: Mr. Floyd just said that statement.

MR. BRADY: All right; go ahead.

A All right.

Q My question is: you said Mr. Floyd (Bass) knew who you were talking about, the one or two people, would you tell the Board . . .

A I said I thought Mr. Bass who I was talking about.

Q I'm sorry. Mr. Bass, and then you said you thought the Board knew as well, would you tell us who that, who the one person possibly two are, and what . . .

A Now, this is for the record; this opinion of mine. Robert (62) Coleman . . .

MR. BRADY: I'm going to object. I don't want your opinion.

A Well, that's . . .

Q You made that statement to . . .

A I made that statement. It is an opinion because I have no direct information as to who it might help. I have

a reason to believe it would help at least one person.

MR. BRADY: I'm going to object to him just rambling again.

Q As the conversation came to an end, as your meeting with Mr. Bass came to an end what did he tell you?

A Well, we, we kinda got off of this hard part a little bit and, talking and he just lent over his desk right toward me and he just kinda shut up his hand and lent over and said: Chester, said: I want to tell you the whole damn thing in a nutshell; he said: Dr. Riser -- no, if we lose this suit, he was a-bumping on his desk, said: if we lose this suit said Dr. Riser is going to be your superintendent and said: we're just not going to have it. Said: we're not going to stand for it. That's -- with his hand setting on the desk and bumping it a little bit. That was our parting words right there. Only, be good and . . .

Q That was the end of your conversation?

A Yeah.

MR. HONEYCUTT: That's all the (64) questions I have. Mr. Brady may have some questions.

LaSALLE PARISH SCHOOL BOARD HEARING OF JUNE 3, 1983: CLOSING STATEMENT ON BEHALF OF CLEVELAND RISER, JR. BY MR. HONEYCUTT.

(92) BY MR. HONEYCUTT:

Mr. President and Members of the Board, we -- I don't have to tell anybody we've been here for two days doing this, and I don't intend to take a long time going over the evidence that, that you-all heard because you-all heard it as clear as I did, and everybody else so there's no need for me to rehash every witness and all of the evidence. I have one or two points to make and I'll be seated and it'll be in your hands.

What we have, or what we're facing here, or you're facing is an individual who has over half of his life devoted to the work of the LaSalle Parish School Board. For 27 years he's compiled a record as an educator and as administrator. That record is, has been introduced as one of our exhibits and it is essentially (93) unblemished for almost 30 years. You heard Mr. Riser testify that he would stand by that record and everything in it. There's only a couple of things that really need consideration here, and I think probably the primary one is Chester Floyd's testimony of his conversation with the superintendent of schools, Mr. Edgar Bass. Apparently all of you know Chester Floyd and have had contacts with him and you know him, and his reputation and what he stands for and what kind of person he is. I'm sure all, each of you know him much better than I.

I think you also know that he has absolutely nothing to gain by coming in here and telling any untruths to this Board. On the other hand, I think it's equally as clear that Mr. Bass would have a lot to lose by conceding that he

made those statements to Mr. Floyd. And I'm making particular reference to his parting comments which we maintain, and we have maintained all along and we continue to maintain and we will maintain in the future if necessary, is the underlying motive behind all of these charges.

Mr. Bass himself testified that he had no complaints with the competency and the way Mr. Riser has conducted himself and his business. He had no complaint; in fact, he said he had no complaints and that everything he did as an educator and administrator was satisfactory. If that's true I don't think that's -- there has absolutely been no evidence that he has done anything less than diligent in his work, has been anything less than diligent in his work. He's a proud man. He's proud of his record and he's proud of his career.

The simple problem is the evidence is not there. There's no evidence to convict this man of these, of these charges. I -- we've heard a lot of evidence and I certainly don't know everything but I -- I like to think I know right from wrong. And I think in this case it would be wrong, very wrong to deprive this (94) man of his unblemished and commendable career as an educator and as an administrator based on these charges, but particularly in light of what we believe we have exposed and what we believe to be the express motive underlying these charges.

Thank you.

DISTRICT COURT TRANSCRIPT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

CLEVELAND RISER, JR.	*	
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VERSUS	*	CI. ACTION
	*	NO. 33-2237
	*	
	*	
	*	
LASALLE PARISH SCHOOL	*	
BOARD, ET AL	*	
	*	

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PROCEEDINGS HAD AT ALEXANDRIA, LOUISIANA, BEFORE THE HONORABLE NAUMAN S. SCOTT, U. S. DISTRICT JUDGE, WESTERN DISTRICT OF LOUISIANA, BEGINNING AT 9:00 A.M. ON THE 7TH DAY OF JANUARY, 1987.

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APPEARANCES:

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(3) (THEREUPON THE FOLLOWING PROCEEDINGS WERE HAD IN CHAMBERS, COUNSEL PRESENT)

THE COURT Let the record reflect that we are in Chambers in a pre-trial conference and that all attorneys are present; that the Court has ruled that it will accept the transcript of the hearing had before the school board in evidence, and you all may make that a joint offering, if you wish; that none of the character witnesses, I think I have been informed that there are some eight character witnesses who have already testified, and some rather extensively, in the school board hearing, and the Court has

ruled that it will not hear more, that is, reputation witnesses, will not hear additional reputation witnesses, and if you have some who are not in the record, we could say that I have suggested that the parties stipulate that those, as well as the ones who might be here who previously testified. If they testified at that time. That their testimony would be the same as if made at the previous hearing, and it would not be necessary to call them. What is the other thing that just came up, Mr. Marcus?

MR. MARCUS: We have some school board members who are parties defendant that we would put on to testify as to the basis on which they made the (4) determination to discharge Mr. Riser.

THE COURT: And the Court will hear those also, it has been mentioned before the Court here this morning that the defense attorneys have had previous consultation with plaintiff attorney and have agreed to subpoena and to have present as many of the complaining witnesses, I guess you could say, the ladies who testified at the hearing. To have them present here today; that they have attempted to accomplish that; that they have been subpoenaed, but two of them were unable to be served, no longer live in the area, and that a successful serving of the subpoena was accomplished on, how many, four?

MR. BRADY: Four.

THE COURT: On Four. They are present.

They will not be called by the defense, but they are available for calling on cross-examination by the plaintiff counsel if he wishes to do so. Is there anything else that we covered?

MR. CHEMINO: Excuse me, Your Honor. On calling them on cross, would that be during the plaintiff's case in chief?

THE COURT: Yes, you could do that.

MR. CHEMINO: Your Honor, is it my understanding that none of the reputation witnesses will (5) be allowed to be called by the plaintiff to testify pursuant to the pre-trial order that you have prepared?

THE COURT: Yes. In other words, I just feel that that is enough reputation witnesses. You could probably get thirty, but that is not going to make a difference.

MR. CHEMINO: Based on the fact that they had testified at the hearing and that their testimony today would be repetition.

THE COURT: Yes. Repetitious of what they testified before.

MR. CHEMINO: Your Honor, would that also exclude any testimony by Mr. Chester Floyd who testified at that hearing?

THE COURT: I think so. If he testified extensively as he did before the Board. I know that you can always think of something else to say. But that doesn't mean I should allow it. And I assume with eight reputation witnesses, that is far more than I would have allowed if there were a hearing that was coming on for some other thing and I allowed reputation witnesses. I certainly wouldn't allow more than three. And so at this time I think that is well covered.

MR. CHEMINO: The plaintiff realizes that the

Court has already ruled on the character witness issue (6) and for the record would object to the ruling. At this time, after going through the pre-trial with you, it appears that the only witness that I have left is Mr. and Mrs. Riser to testify, and that seriously cripples any case that I have prepared to present on Mr. Riser's behalf. What I'm getting at is the defendants have suggested that they will call some of the school board members to testify, and I realize that I would have an opportunity to cross-examine them. But in a way I feel that it is possible that some of my character or reputation witnesses could be valuable possibly as a rebuttal witness to some of the stuff that was said by the school board members.

THE COURT: Well. It is there in the record.

MR. BRADY: We are going to ask them about questions, you know; were they a board member; did they hear the evidence; what did they do.

THE COURT: And let me elaborate on that. This is in a way sort of an appeal. So that most of the case is already in. There has been a hearing, he has introduced all of the evidence. I don't think that we can look at it as if nothing has been done. We are admitting that record. And what you are urging me to do is to do it all over again, and I'm not going to do that. I don't think that to have them say it again before me (7) is going to make the case any better. And if it would, I wouldn't take that attitude, but I think I have their testimony and I don't need it repeated.

MR. CHEMINO: Your Honor, inasmuch as--

THE COURT: Now, Mr. Riser may feel that perhaps he ought to have them come again, but that is something else. I mean the parties often disagree with what the Court does.

MR. CHEMINO: I respect the findings and the opinion of the Court. But I have to ask you concerning, and I realize it takes the form of an appeal today coming from the tenure hearing that was held, but does the Court entertain any issues that Mr. Riser alleges of possible defamation of of his loss of reputation as a result of any publicity that flowed from the news releases or any--

THE COURT: No, that is not pertinent. I mean they have a right to have a hearing to make charges against a teacher. That is just a matter of law. I'm taking no - giving that no attention whatsoever.

MR. MARCUS: Does the Court want to hear any evidence with respect to absence of monetary loss? There was non here.

THE COURT: I don't know exactly what you are referring to.

MR. MARCUS: Well. Mr. Riser was discharged. (8) But as a consequence of compliance with the prior case that you had, the case in which he said he was discriminated against and the Court found that he as discriminated against because he wasn't promoted to assistant superintendent. He was put back to work and he suffered no - and he was given back pay and he suffered no monetary losses.

THE COURT: In other words, the monetary part of that has been fulfilled?

MR. MARCUS: Yes, Sir. Now, we could - in the event the case goes against us, we could have a supplemental hearing on damages, and that would be all right with me.

THE COURT: That's all right. Let's not do that today. But it is my understanding, though, that as far as the re-instatement, he has been re-instated insofar as holding the office and getting the pay therefore until the date that he was terminated.

MR. MARCUS: Until the date he retried.

MR. BRADY: He was actually in our calculations overpaid about eight thousand dollars.

MR. CHEMINO: Your honor, pursuant to what we have decided today and the court has entered into the record, all of the reputation witnesses that I subpoenaed to be at trial today, can I dismiss them? (9)

THE COURT: Yes.

MR. CHEMINO: Now?

THE COURT: Yes. And since I assume this was done before the reporter came in, we will have a stipulation that if they appeared and testified today that their appearance, along with any additional ones you might have had, would be to the same effect as they testified at the hearing.

MR. MARCUS: We are agreeable to that, your Honor.

THE COURT: Okay, I think we can go forward.

X X X

DISTRICT COURT TRANSCRIPT, PAGES 61-71 TESTIMONY OF LaSALLE PARISH SCHOOL BOARD MEMBERS; MR. NORRIS AND MR. McCARTNEY.

Q (61) Let me ask you this; Did you participate in any investigation that may have been made by any attorney or investigation for the school board prior to that hearing?

A No, sir, I did not.

Q Did you concur in the school board's conclusion that Mr. Riser should be discharged?

A Yes, sir.

Q Did you base your determination that Mr. Riser should be discharged on the evidence which you heard the witness give at the tenure hearing?

A Yes, sir.

Q Did the fact that Mr. Riser had sued the school board over the assistant superintendent job have any bearing whatsoever on your decision that he should be discharged?

A None whatsoever.

Q Now, it has been alleged in the complaint in this case that Mr. Riser or Doctor Riser also acted with or cooperated with the government on a school board reapportionment investigation in LaSalle Parish. Were you aware of that at the time of the tenure hearing?

A I'm sure that I was, yes, sir.

Q All right. Did the fact that he had participated with the justice department in that investigation have any bearing whatsoever on your decision that he should be (62) discharged?

A None whatsoever.

Q What was the basis for your decision that he should be discharged?

A The results, the testimony at the hearing.

Q Now, sir, assume that Doctor Riser had not engaged in these activities, the reappointment cooperation or filing the suit against the school board, would you have arrived at the same conclusion based upon the evidence you heard he should be discharged?

A Yes.

Q Okay, I want you to assume that it was not Doctor Riser who had been involved but say someone else, maybe even myself. If you heard the same evidence about me and I was an employee of the school board, would you have arrived at the same conclusion that I should be discharged?

A I certainly would have.

Q Now, after the testimony was taken, the transcript shows that you all went into executive session, is that correct?

A Yes, it is.

Q And I think that the record shows that you were in executive session for about three and a half hours; would you go along with that? (63)

A Yes, sir. Somewhere near that.

Q What amount of time was taken up by the board in determining whether Doctor Riser was guilty of the charges which had been brought against him?

A A very small amount of the time.

Q Okay. Was the board unanimous on that question?

A It was unanimous, Yes, sir.

Q From the beginning?

A From the beginning it was unanimous.

Q Okay. Why did it take you three and a half hours to arrive at your decision then?

A Well, we was concerned about Mrs. Riser, the children, and the community and what effects this might would have on the community, and we discussed those items, what might be the reaction of the people and so on. That was about it, but our decision for unanimous was very quickly.

Q So the balance of the time - is it fair to say that the balance of the time was taken up with deciding what you should do about it?

A Yes, sir.

MR. MARCUS: No further questions. Would you answer counsel's questions, please, sir.

CROSS EXAMINATION

BY MR. CHEMINO:

Q (64) Mr. Norris, my name is Scott Chemino--

A How do you do, sir.

Q --Representing Mr. Riser. Do you know who was responsible for the gathering - Do you know who was responsible for the gathering of any evidence that was to be presented at the hearing by the school board, information and evidence that would have been gathered for the school board?

A I do not.

Q Were you ever consulted in terms - previous to the rehearing date in preparation for that hearing and the gathering of that evidence were you ever involved in making any policy decisions as to the allocations of money to fund the investigation or to - excuse me, to fund the investigation?

A No, sir.

Q Do you know who was responsible for spearheading the investigation or seeing that this was done through the efforts of the school board?

A I do not.

Q Did you ever inquire as to who was gearing the investigation, say, from the school board office?

A Let's see. I knew about it when everyone else knew. I didn't inquire, didn't know anything about it up until, you know, a specific time. I didn't (65) know anything about the investigation whatsoever.

Q Yes, sir. When did everyone else know at the time that you knew?

A I would say that when we got ready to hire an attorney.

Q And when was that prior to the hearing, do you know?

A I would have to project; a couple of months, I'm not sure. I'm not sure about that.

Q You just testified and I'm not trying to--

A We are going back to '83.

Q But you just testified that you weren't aware of the investigation that was going on or who was gearing the thrust of the investigation from the school board office, but you immediately just testified that you were aware that an attorney would have to be hired approximately two months before the hearing, is that correct?

A Thirty days or something, you know, of that nature, yes, sir.

Q Was any complaint ever directly made to you by any one of the alleged complainants who complained of sexual harrassment?

A No, Sir.

Q Did you at any time make any recommendations to the board prior to your discussions at the hearing of a formal action having to be brought against Doctor Riser (66) pursuant to these allegations?

A No, sir.

Q If you can recall, who and how did you immediately find out about the allegations? My question is; who notified you as to the charges of sexual harassment about Doctor Cleveland Riser?

A Let's see. It would be - I would say the superintendent did.

Q Do you recall when he would have done that?

A Probably thirty days before the hearing.

Q Probably. Do you know for sure?

A No, sir, I don't know for sure. I don't have the facts right in front of me to tell you the exact date, no sir.

Q There has been testimony given that some complaints were made to the school board--

A Not to me.

Q --As early as two years prior to 1983?

A I can only speak for myself.

Q You at no time were the recipient of any of those complaints?

A No, sir.

Q You were a school board member for how long prior to 1983?

A I came on the Board in 1970.

Q (67) And no school board member or the superintendent or the president ever approached you and said that they had had allegations brought against Cleveland Riser concerning sexual harrassment prior to your knowledge of, say a month before as you have testified?

A No, sir.

MR. CHIMINO: Thank, you Mr. Norris.

THE COURT: Any further questions?

REDIRECT EXAMINATION

BY MR. MARCUS:

Q Mr. Norris, you were asked when you were apprised by the superintendent that these allegations had been made. Let me ask you, did you receive that information at a meeting of the school board from the superintendent?

A That's right, yes sir.

Q And that was what, a month or so before the hearing?

A I would say so, yes, sir.

MR. MARCUS: Thank you very much.

THE COURT: You may step down, Mr. Norris.

THANK YOU.

(WITNESS EXCUSED)

THE COURT: You may call your next witness.

MR. MARCUS: Mr. McCartney.

W. B. McCartney

A Defendant, called as a witness in his own behalf, and (68) having first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MARCUS:

Q Would you give us you full name and address, please, sir?

A W. B. McCartney, 1417 North First Street, Jena, Louisiana.

Q And what do you do for a living, Mr. McCarthy?

A I'm self-employed.

Q Have you been a member of the LaSalle Parish School Board?

A Yes, sir.

Q When did you first become a member?

A I believe about 1970.

Q And were you a member of the board in June, 1983 when the tenure hearing involving Doctor Riser took place?

A Yes, sir.

Q Did you participate in that hearing?

A Yes, sir.

Q And did you hear the testimony of the witnesses and the arguments of the attorneys at that hearing?

A Yes, sir.

Q Did you believe the seven young ladies who testified in behalf of the board with respect to their encounters (69) of, I will call it, sexual harrassment from Doctor Riser?

A Yes, sir.

Q Sir, did you participate in any investigation that the board or people hired by the board may have made or the superintendent may have made prior to the tenure hearing?

A No, sir.

A Did you base your determination that Doctor Riser should be discharged on the evidence that you heard at the tenure hearing?

A I did.

Q Did the fact that Doctor Riser had sued the school board over the promotion to assistant superintendent have any bearing whatsoever on your decision to discharge him?

A No, sir.

Q Were you aware at the time of the tenure hearing that Doctor Riser had any participation with the justice department on the investigation which resulted in the eventual reapportionment of the LaSalle Parish School Board?

A No, sir.

Q You didn't know about it at the time?

A No, sir.

Q What was the basis for your decision that Doctor Riser should be discharged?

A (70) I based my decision on the evidence that I had heard during the proceeding.

Q If Doctor Riser had not engaged in the assistant superintendent suit or other activities which may have alleged race discrimination or his right to speak out and you had heard the same evidence that you heard at that tenure hearing would you have arrived at the same conclusion that Doctor Riser should be discharged?

A Yes, sir, I would have.

Q And I will ask you also; assume that I was the person who was charged and I was a teacher in the system or an administrator in the system and you heard the same evidence against me that you heard given against Doctor Riser, would you have arrived at the same conclusion that I should also be discharged?

A Yes, sir.

Q Now, the transcript of testimony of the tenure hearing shows that the board was in executive session after

the testimony was concluded for about three and a half hours; would you go along with that?

A Yes, sir.

Q (71) Did the board arrive at a conclusion as to whether Doctor Riser was guilty of the charges which had been made against him?

A Yes, sir.

Q And about how long did it take for you to arrive at that conclusion?

A Well, that decision did not take very long.

Q Okay. Then could you tell us why it took three and a half hours for you to conclude your deliberations and announce your results?

A Well, our discussions was around what should be done about it. There was a lot to be considered; his professional reputation, his family there, and the welfare of the community.

Q Did you consider alternatives?

A Yes, sir.

MR. MARCUS: Thank you very much, sir.

(75) MR. MARCUS: Your honor, the other members of the board, most of them who were on the board at that time are here, but I think the testimony would be repetitious, I'm not going to call them. If Mr. Chemino wants any of them on cross-examination I will make them available.

THE COURT: All right, sir.